

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1197**

Introduced by Bromm, 23

Read first time January 11, 2000

Committee: Banking, Commerce and Insurance

A BILL

- 1 FOR AN ACT relating to trustees; to provide for a certification of
- 2 trust; and to declare an emergency.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) A trustee may present a certification of  
2 trust to any person in lieu of a copy of any trust instrument to  
3 establish the existence or terms of the trust. The trustee may  
4 present the certification of trust voluntarily or at the request of  
5 the person with whom he or she is dealing. Notwithstanding any  
6 provision of the Nebraska Trustees' Powers Act to the contrary, no  
7 person is required to accept and rely solely on a certification of  
8 trust in lieu of a copy of, or excerpts from, the trust instrument  
9 itself.

10           (2) A certification of trust shall be in the form of an  
11 affidavit and signed and acknowledged by all acting trustees of the  
12 trust.

13           Sec. 2. (1) A certification of trust may confirm the  
14 following facts or contain the following information:

15           (a) The existence of the trust and the date of execution  
16 of any trust instrument;

17           (b) The identity of the settlor and each currently acting  
18 trustee;

19           (c) The powers of the trustee and any restrictions  
20 imposed upon the trustee in dealing with the assets of the trust;

21           (d) The name or method of choosing successor trustees;

22           (e) The revocability or irrevocability of the trust and  
23 the identity of any person holding a power to revoke it;

24           (f) If there is more than one trustee, whether all of the  
25 currently acting trustees must, or if less than all, may, act to  
26 exercise identified powers of the trustee;

27           (g) The identifying number of the trust and whether it is  
28 a social security number or an employer identification number;

1           (h) The name of each beneficiary and the relationship to  
2 the settlor;

3           (i) The state or other jurisdiction under which the trust  
4 was established; and

5           (j) The form in which title to the assets of the trust is  
6 to be taken.

7           (2) The certification of trust shall contain a statement  
8 that the trust has not been revoked or amended to make any  
9 representations contained in the certification of trust incorrect  
10 and that the signatures are those of all the acting trustees.

11           Sec. 3. A certification of trust need not contain the  
12 dispositive provisions of the trust, but the person to whom the  
13 certification of trust is presented may require copies of, or  
14 excerpts from, any trust instrument which designates the trustee or  
15 confers upon the trustee power to act in the pending transaction.

16           Sec. 4. A person who acts in reliance upon a  
17 certification of trust without any knowledge that the  
18 representations contained in the certification of trust are  
19 incorrect is not liable to any person for such actions. A person  
20 who does not know that the representations contained in the  
21 certification of trust are incorrect may assume without inquiry the  
22 existence of the representations contained in the certification of  
23 trust. Knowledge may not be inferred solely from the fact that a  
24 copy of all or part of a trust instrument is held by the person  
25 relying upon the certification of trust.

26           Sec. 5. A person's failure to demand a certification of  
27 trust, or his or her refusal to accept and rely solely on a  
28 certification of trust, shall not be considered an improper act,

1 and no inference as to whether he or she has acted in good faith  
2 shall be drawn from the failure to demand, or the refusal to accept  
3 and rely upon, a certification of trust. This section creates no  
4 implication that a person is liable for acting in reliance upon a  
5 certification of trust under circumstances in which the  
6 requirements of sections 1 to 6 of this act are not satisfied.

7           Sec. 6. Sections 1 to 5 of this act apply to all trusts  
8 whether established pursuant to Nebraska law or established  
9 pursuant to the law of another state or jurisdiction.

10           Sec. 7. Since an emergency exists, this act takes effect  
11 when passed and approved according to law.